

REMARKS

This Amendment, filed in reply to the Office Action dated January 12, 2010, is believed to be fully responsive to each point of objection and rejection raised therein. Accordingly, favorable reconsideration on the merits is respectfully requested.

Claims 1-6, 9 and 13-15 are rejected. Claims 1-5 are amended herewith solely to improve clarity and conciseness. Hence, no new matter is added by way of this amendment.

Entry and consideration of this amendment are respectfully requested.

Claims 1-6, 9 and 13-15 are Patentable Under 35 U.S.C. § 103

On page 3 of the Office Action, Claims 1-6, 9 and 13-15 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Spetz-Holmgren *et al.* (U.S. Patent Publication No. 2002/031521) and Merigan *et al.* (U.S. Patent No. 7,129,041), in view of McSwiggen *et al.* (U.S. Patent Publication No. 2003/0175950) and Tuschl *et al.* (WO 02/44321), essentially for the same reasons as set forth in the Office Action mailed July 29, 2009.

Briefly, the Examiner acknowledges that neither Spetz-Holmgren *et al.* nor Merigan *et al.* disclose siRNAs, much less siRNAs having any of the following characteristics: (a) a hairpin; (b) comprising a 19-28 nucleotide fragment of SEQ ID NO. 3; (c) a 5' or 3' UU overhang; (d) encoded by an expression vector; or (e) encapsulated in a liposome. However, the Examiner contends that, in view of McSwiggen *et al.*, who allegedly discloses siRNA molecules of 19-23 nucleotides in length that target HIV, those of ordinary skill in the art would readily have employed a 19-28 fragment of SEQ ID NO. 3 because Spetz-Holmgren *et al.* and Merigan *et al.*

allegedly demonstrate that oligonucleotides comprising SEQ ID NO: 3, of approximately the same size range (*i.e.*, approximately 19-28 nucleotides in length) were known to “target” HIV.

Solely in the interest of compacting prosecution, and without acquiescing to the merits of the rejection, Claim 1 is amended herewith to recite that the claimed siRNA is selected from the group consisting of “a single stranded RNA consisting of SEQ ID NO:3; a single stranded RNA consisting of SEQ ID NO:3 with two uracil nucleotides appended to the 5’-terminus, the 3’-terminus, or both; a double stranded RNA consisting of SEQ ID NO:3 annealed to its complementary ribonucleotide sequence; and a double stranded RNA consisting of SEQ ID NO: 3 annealed to its complementary ribonucleotide sequence, with two uracil nucleotides appended to each 3’-terminus, each 5’-terminus, or both.”

Further, Applicants thank the Examiner for the helpful telephonic discussion of May 10, 2010, during which the Examiner indicated that a single-stranded siRNA consisting of the ribonucleotide sequence of SEQ ID NO: 3, with or without diuracil overhangs, and a double-stranded siRNA consisting of the ribonucleotide sequence of SEQ ID NO: 3 hybridized to its complementary ribonucleotide sequence, with or without diuracil overhangs, would be allowable subject matter. Accordingly, in the interest of expediting allowance, and without prejudice or disclaimer, Claims 1-5 are amended herewith to be commensurate with the subject matter indicated by the Office as being allowable. Consistent with the Office’s determination, Applicants respectfully submit that the cited references, nor the art as a whole, disclose or suggest the presently claimed invention, at least for the reasons presented on pages 7-12 of the Amendment filed October 29, 2009, which arguments are incorporated by reference as if fully

set forth herein. Moreover, the amendments are amply supported by the specification as originally filed, such as at page 1, line 23, to page 2, line 31, and in Claim 2 as originally filed. In view of the foregoing, Applicants respectfully submit that the claims as amended are nonobvious, and allowable.

Withdrawal of the rejection is respectfully requested.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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